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**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NEW JERSEY**

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| **LUCIANA BAKER,** | **Electronically Filed** |
| **Plaintiff,** | |
| **v.** | **CIVIL ACTION NO. 3:08-cv-6382 (FLW) (TJB)** |
| **THE HARTFORD LIFE INSURANCE COMPANY and BLOOMBERG, LP – NEW YORK, ADMINISTRATOR OF THE BLOOMBERG LP LONG-TERM DISABILITY PLAN** | ORDER TO SEAL |
| **Defendants.** | RECEIVED NOV - 6 2009 AT 8:30 M WILLIAM T. WALSH CLERK |

**[~~PROPOSED~~] ORDER GRANTING MOTION TO SEAL EXHIBIT**

**THIS MATTER** having come before the Court upon the motion of Defendant Hartford Life and Accident Insurance Company's ("Hartford"), improperly plead as The Hartford Life Insurance Company ("Hartford") pursuant to Local Civil Rule 5.3(c) to seal the exhibit to the Declaration of Anthony J. Destribats in support of Hartford's Brief in Opposition to Plaintiff's Motion for Summary Judgment; and the Court having determined that this action involves allegations regarding the disclosure of confidential information, and for other and good cause having been shown,

**FINDINGS OF FACT**

1. The materials that Hartford seeks to seal contain information designated by the parties as "Confidential" or contained within the Administrative Record previously ordered to be filed under seal.

2. The materials contain medical and other personal and confidential information relating to plaintiff and her health and medical history that should not be of public record.

3. The parties have a legitimate interest to protect this information as confidential because plaintiff would otherwise suffer injury that could not be avoided without sealing this information; specifically, plaintiff's privacy interest in maintaining the confidentiality of her medical records and history would be violated.

4. Due to the nature of the materials described herein, there is no less restrictive alternative to filing under seal the exhibit to the Declaration of Anthony J. Destribats in support of Hartford's Brief in Opposition to Plaintiff's Motion for Summary Judgment.

**CONCLUSIONS OF LAW**

5. Upon consideration of the papers submitted in support of the motion and the materials that the parties have designated as "Confidential," including information in the Administrative Record, for which Hartford is required to seek to have the Court seal, the Court concludes that Hartford has met its burden of proving, under L. Civ. R. 5.3 and applicable case law, that the materials described above should be filed under seal. Specifically, the Court concludes that: (a) the materials contain confidential information; (b) that the parties have a legitimate interest in maintaining the confidentiality of the material; (c) that public disclosure of the material would result in clearly defined and serious injury; and (d) no less restrictive alternative to sealing the subject document is available.

6. The foregoing conclusions are supported by relevant case law holding that the right of public access to the court filings is not absolute, and may be overcome by a showing such as made here, in the discretion of the trial court. *See Nixon v. Warner Communications, Inc.,* 435 U.S. 589, 603 (1978). The Court, upon such a proper showing, may in its

discretion prevent confidential materials from being transmuted into materials presumptively subject to public access. *Pfizer Inc., Pharmacia & Upjohn Co., LLC v. Teva Pharm. USA, Inc.*, No. 08-1331, 2009 U.S. Dist. LEXIS 65031, at *4 (D.N.J. July 28, 2009); *Gambale v. Deutsche Bank AG,* 377 F.3d 133, 143 n.8 (2d Cir. 2004).[1]

**BASED UPON** the foregoing findings of fact and conclusions of law, it is:

**ORDERED** that Hartford's Motion to Seal is hereby **GRANTED**; and

**IT IS FURTHER ORDERED** that the following material is sealed:

a. Exhibit A to the Declaration of Anthony J. Destribats in Support of Hartford's Brief in Opposition to Plaintiff's Motion for Summary Judgment;

**SO ORDERED** this 6th day of November, 2009.

It is further ORDERED that the Clerk of the Court terminate this Motion [Docket Entry No. 28] accordingly.

[signature]

Tonianne J. Bongiovanni, U.S.M.J. ~~U.S.D.J.~~

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[1] The Court is aware that any interested person seeking to intervene has until November 16, 2009, the return date for this Motion, to move to do so, and this order in no way prejudices that right. Consequently, should an interested person timely intervene with respect to Hartford's Motion to Seal, then this Court shall reexamine its findings at that time.

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